TL1504-6

*Mission permanente du Portugal*
*Genève*

"MEMORANDUM"

East-Timor

1. The 45th session of the United Nations Human Rights Commission will take place in Geneva from January 30th to March 10th, 1989.

2. The Portuguese delegation, in accordance with Portugal's consistent policy, both in its former observer capacity and, since 1988, as a member of the Commission, will refer in its interventions on items included in the Commission's agenda to two of the most important aspects of the question of East Timor: the denial of the exercice of the right to self-determination and the violation of human rights and fundamental freedoms of its people.

3. East-Timor is a non-self-governing territory, included in the list of non-self-governing territories, established under the United Nations General Assembly's supervision, to which the Chapter XI of the UN Charter, as well as resolutions 1514 (XV), 1541 (XV) and 2625 (XXV) are applicable. These embody the universally accepted principles and rules of the United Nations in the field of decolonization, namely and foremost the right to self-determination and independence of the colonial countries

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and peoples. Portugal is regarded by the United Nations as the administering power, and remains internationally responsible for the territory of East Timor and for bringing about its decolonization process.

This process was abruptly suspended on December 7th, 1975, when the armed forces of neighbouring Indonesia invaded and occupied that territory until today. Resolutions were adopted both by the Security Council (384 and 389) and the General Assembly (in successive resolutions from 1975 to 1981) demanding the withdrawl of the Indonesian forces from East Timor as well as the respect for its territorial integrity and for the right to self-determination of its people. Indonesia, however, never complied with these resolutions.

In 1982, the General Assembly, by adopting resolution 37/30, requested the Secretary-General to initiate consultations with all parties directly concerned, with a view to exploring avenues for achieving a comprehensive settlement of the problem. Since 1983, and under the auspices of the Secretary-General, informal contacts have been going on between representatives of Indonesia and Portugal. Although some progress has been achieved (mainly concerning some of the humanitarian questions, such as civil servants, repatriations and family reunions) they have failed to advance significantly on the crucial issue of the exercise of the right to self-determination, due to indonesian intransigence.

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4. In fact, Indonesia claims that the decolonization process of East-Timor has been achieved, since the East-Timorese have already exercised their right to self-determination by "opting" for integration in Indonesia. As a basis for this claim, Indonesia argues that an East-Timorese "People's Assembly" (composed of 37 hand-picked members) presented, on July 17th, 1976, a "petition" to the Indonesian authorities asking for that integration to take place. This "act of free choice", however, was never recognized by the United Nations, which took no part in the proceedings and have kept this question in its agenda as a colonial issue, maintaining Portugal's responsibility over the territory. So far the East-Timorese have been prevented from exercising, in a valid and internationally acceptable manner, their inalienable right to self-determination.

5. Since the very beginning of its illegal occupation of the territory of East-Timor, Indonesia met with armed resistance and soon alarming reports on human rights violations and appalling living conditions started to reach the international community and the world's public opinion.

According with figures provided by the Indonesian appointed "Governor" of East-Timor himself, more than 100,000 people would have perished since 1975 till 1985, as a result of the violence, famine and disease

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which spread all over the country. Other sources, however, calculate the loss of lives to be no less than 200,000, out of a population inferior to 700,000 in 1975.

Severe restrictions have been imposed by the Indonesian authorities on the access to the territory, virtually closing it to outside world, except to a few escorted visitors, carefully cleared. Even international humanitarian organizations are not permitted to accede freely to the territory, thus hindering their capacity to carry out their activities.

In spite of these obstacles, reports and testimonies gave account of the nature of the abuses of which the East-Timorese have been victims: reprisals on the civilian population (including bombardment of villages); transfers of population and their confinement in "strategic hamlets", in order to avoid any contact with the guerrilla fighters, thus severely preventing their ability to produce their own subsistence crops;arbitrary arrests, diseapparances, torture and extrajudicial executions; massive settlement of people of Indonesian origin; attemps to thwart the cultural, social and religious identity of the East-Timorese; creation of a climate of fear and denunciation, etc.

The magazine "Far Eastern Economic Review" (8/9/1988), quoting a conversation between "Governor"

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Mário Carrascalão and several journalists in Dili, reports that: "After integration, an estimated 90% of the population was re-located by the government for security reasons. Today, only an estimated 20% of East Timor's villages occupy their ancestral sites". This gives us an idea of the social, economic and cultural disruption inflicted on the East-Timorese.

6. Since the 44th session of the Human Rights Commission took place (February/March 1988) further reports, testimonies and allegations of the same kind continue to be produced. This demonstrates that the problem of the human rights violations in that territory remains, unfortunately, very present and that it cannot be ignored by the international community, the more so since it affects a small non-self-governing people for which all countries are also responsible and should show solidarity.

7. Special attention should be paid in this regard to the reports issued last year by the well known NGO's "Amnesty International" and "Asia Watch".

The latter's was made public on 21st November. It passes in review the most recent reports on human rights abuses in East-Timor, giving an overall account of the evolution of this problem since 1975 as well. The situation now prevailing is summed up as follows:

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"Thirteen years after the invasion, some of the worst excesses of the occupation forces have abated, but the Timorese people continue to suffer daily violations of fundamental rights. The rights to freedom of speech, association and movement remain subject to severe restrictions. Residents consistently describe a climate of fear, reinforced by a pervasive security apparatus.

In recent years, there have been comparatively few documented cases of disappearances, torture or extrajudicial execution, but continued restrictions on access to East-Timor by independent investigators impede efforts to obtain detailed information about these practices or to verify accounts that emerge. And the Indonesian government's faillure to account for all but a handful of the many thousands thought to have "disappeared" since 1975 is a continuing affront to the rule of the law.

Welcome progress on another front has also served to highlight recent violations. In the past year over one hundred political prisoners have been released from East Timor's prisons. By all accounts, they were convicted under procedures lacking any semblance of fair process. Released prisoners and relatives of those still detained describe a pattern of severe abuse during the early days of the prisoner's detention. It appears likely, moreover, that arbitrary patterns of arrest and detention remain prevalent, particularly in areas outside East Timor's capital."

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"Amnesty International", in its 1988 report, indicates that "Human rights violations continued to be reported from East-Timor", refering to tortures, unfair trials, extrajudicial executions and "disappearances" still to be cleared up." In March, already, the same NGO had issued a report on the continuing flow of information concerning the practice of torture in East-Timor.

8. During the debate in the UN Special Committee for Decolonization, last August (in which twenty two petitioners took part, twice as much as those who had intervened the previous year), the delegation of "Amnesty International" mentioned the isolation imposed on the territory:

"The restrictions on access to the territory do not in themselves constitute evidence that human rights violations are taking place. But until such time as the territory is open to outside observers, until East Timorese can talk freely without fear of repercussions or reprisals against themselves or their families, until visitors can attend trials in Dili, and until information is made available on people held for interrogation in district-level military command headquarters, it will be difficult to accept assurances by the Indonesian Governement that the rights of the East Timorese are fully respected."

In fact, one of the most shocking features of the policy pursued by the occupying power with regard

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to East-Timor - an illegal occupation of a non-self-governing territory condemned by the United Nations - has been the lack of free access from the outside world (permissions to travel abroad being also severely conditioned) and the limitations imposed on the movements of the population within its own borders.

Commenting an assertion made by "Governor" Carrascalão, according to which East-Timor "has always been open" - in a "controlled way", "Asia Watch" writes in its report:

"East Timor's "controlled" openness has, of course, been nothing less than an impenetrable barrier, sealing the territory off from the ameliorating effects of the public scrutiny."

The Indonesian authorities, facing a growing international criticism on this regard, have just announced that the access to East-Timor would be, since January 1st, 1989, submitted to the same regime applicable to Indonesia. Yet, not only the effect of this proclaimed opening does not seem to be defined (of the 13 districts,five -in which two thirds of the population live - appear to remain beyond the scope of this measure), but also its pratical consequences are still to be seen, since several individuals were refused (after January 1st) permission to accede to the territory on the ground they lacked the indispensable authorizations.

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9. Although the Indonesian Governement sustains that the situation in the territory is returning to "normal", the fact is that, besides those already referred to, other numerous allegations ("too convergent to be ignored", as former EC Commissioner M. Claude Cheysson said before the European Parliament, on September 14th 1988) keep being made concerning human rights violations in East-Timor.

Just to recall a few of them, we would mention the recent public testimonies of East-Timorese refugees, who had just left the territory, in the last session of the HRC and before the Sub-Commission on the Prevention of Discrimination and Protection of Minorities; the resolutions adopted by the European Parliament, in September 15th and December 15th; and the letters addressed by almost two hundred American congressmen (the largest number ever) to Secretary of State Shultz, late October.

Very recently, Bishop Carlos Belo, Apostholic Administrator of Dili, commenting on the wave of detentions and arrests made before and during the visit of President Suharto to East Timor, in early November, wrote in his pastoral of December 5th, 1988:

"Prisons, interrogations and tortures: Before and after the visit made by the President of the Republic of Indonesia, General Suharto, many people were taken away for interrogation. Following these interrogatories some of

them were detained, and others, besides being detained, were slapped, beaten and tortured. As a rule, when a person is supposed to be a criminal, he (or she) is called and interrogated in accordance with the law. But it cannot be considered normal when the interrogatory is preceeded or accompanied by blows, kicking and beatings. This practice, which became a general rule in East-Timor, is rejected by any civilized law and by christian morality. We express our disagreement with this, because it constitutes an abuse of the fundamental rights of the human beings and an affront to their dignity as men or women. We disagree with this barbaric system and condemn the lying propaganda according to which abuses of human rights do not exist in East Timor."

10. For all these reasons, we believe that the international community cannot remain indifferent to the situation prevailing in East Timor. It must continue to carefully monitor the conditions to which this non-self-governing territory is submitted. Hence, having in mind the prerogatives and responsabilities of the HRC on this matter, we urge that the delegations of the member countries and those of the observers to the HRC at the 45th session:

a) express their concern over the situation prevailing in that territory, both from the point of view of the continuing denial of the exercise of the right to

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self-determination of its people and of the persisting and converging reports on violations of their human rights and fundamental freedoms, which cannot be duly cleared up due to the lack of free access;

b) stress the need to a full and effective removal of all barriers between East-Timor and the rest of the world, thus allowing impartials observers to accede to it and the international humanitarian organizations to freely carry out their aid activities hitherto limited.

Geneva, 30th January 1988